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NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

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TITLE 473 SOCIAL SERVICES FOR THE AGED AND DISABLED

CHAPTER 3 SOCIAL SERVICE PROVIDERS

001. INTRODUCTION. This Chapter contains definitions, requirements, and standards used in evaluating and approving social service providers who wish to enroll and provide services through this Program.

002. DEFINITIONS. The following definitions apply:

002.01 INDIVIDUAL PROVIDER. A provider who has no employees and will not normally subcontract any service(s) for which they are requesting approval to provide. Individual providers are independent contractors and not employees of the Department or the State of Nebraska. For the purpose of the Federal Insurance Contribution Act withholding for Social Security and Medicare taxes, the provider is considered an employee of the recipient.

002.02 PROVIDER IDENTIFICATION NUMBER. A nine-digit Federal Identification number or a nine-digit Social Security number followed by a two-digit suffix code.

002.03 PROVIDER ENROLLMENT FORM. A document whereby the provider indicates willingness to participate in the program and provide services to recipients. The enrollment form describes the services to be provided as well as the agreed upon units and unit rates for each provider. The provider's responsibilities are stated in the enrollment form.

002.04 SUBCONTRACTING. When a service provider pays someone other than a provider's employee to provide the contracted service.

002.05 TWO-DIGIT SUFFIX CODE. Two identifying numbers attached to the Federal Identification Number of providers who share the same Federal Identification Number due to affiliation with a larger agency.

003. FACE-TO-FACE INTERVIEW. A face-to-face interview is required of each potential provider.

003.01 FAILURE TO MEET STANDARDS. If the potential provider does not meet standards at the time of the initial visit or face-to-face interview, but is able to correct the deficiency within 30 days, the enrollment process will continue when proof of compliance with standards is received.

004. CONFLICT OF INTEREST. No employee of the Department may be approved as a service provider if the employee is in a position to influence the employee's own approval or utilization.

005. RECIPIENT'S RELATIVE AS PROVIDER. A relative provider may not be a legally responsible relative or legal dependent of the recipient. A non-legally responsible relative of a recipient may be a provider if it is documented that the relative provider is held to the same provider requirements as non-relative providers.

006. SERVICE PROVIDER ENROLLMENTS. The following requirements govern service provider enrollments:

- (A) Each provider must be properly enrolled before services can be authorized for purchase;
- (B) The Department must evaluate and approve or disapprove all service providers seeking enrollment;
- (C) Enrollments are effective up to 12 months, are never back-dated, and must be signed by the provider on or before the effective date;
- (D) Changes in the services of a provider or terms require a new enrollment form. Address changes which do not affect the service location do not require a new enrollment form but an amendment must be completed showing the provider's new address;
- (E) Notice of any changes in services, units or unit rates proposed by either the provider or the service agency must be given as soon as possible; and
- (F) Service provider enrollments must be approved by the Department.

007. PROVIDER EVALUATION. As part of the provider approval process, the Department conducts an evaluation consisting of the following:

- (A) A face-to-face interview with each potential provider at least annually;
- (B) Annual visits to each facility in which services are provided to recipients outside of recipients' homes; and
- (C) Assessment of the quality of service provision at least once during the enrollment period by observing service delivery, visiting the service facility, interviewing the provider, or interviewing a recipient served by the provider.

007.01 PROVIDER COMPLIANCE. If the provider does not meet standards at the time of the initial visit or interview, but is willing to correct the deficiency within 30 days, the evaluation process will continue when proof of compliance is received.

007.02 SUBCONTRACTORS. Site visits are not required for subcontracted facilities. The service provider shall ensure that subcontractors meet all standards and requirements.

008. SERVICE PROVIDER RATES. The service provider's approved rates must not exceed the Department's approved maximums without prior Department approval.

009. SERVICE PROVIDER ENROLLMENT RENEWAL. The provider will undergo an evaluation at the time of renewal before the expiration of the enrollment term and any time there is reason to believe the provider is not fulfilling the provider's responsibilities. The Department may require providers and provider employees to undergo updated background checks as part of the renewal process.

010. PROVIDER TERMINATIONS. Either the Department or the provider may terminate an enrollment by giving at least 30 days advance written notice. The 30-day requirement may be waived in case of emergencies such as illness, death, injury, or fire. A written notice will be sent to the provider when the Department terminates a provider enrollment. Written notice to the provider is not required when the provider or potential provider voluntarily withdraws an application to enroll.

011. PROVIDER STANDARDS. The following standards apply to all providers:

- (A) The proposed service must meet the service definitions;
- (B) The Department need not enroll a potential provider if the proposed service is sufficiently available. The Department has discretion to determine if adequate services are available;
- (C) All service providers must have a Federal Identification number or Social Security number whichever is appropriate before being approved for enrollment;
- (D) The provider must not be the parent of the minor child receiving services nor the legal guardian, spouse, or minor child of the recipient;
- (E) The provider must not have a history of chronic incorrect or inaccurate billings whether intentional or unintentional for services that have been provided or have a criminal history of financial mismanagement; and
- (F) The provider must not engage in or have an ongoing history of criminal activity that may be harmful or may endanger individuals for whom the provider serves. This may include a substantiated listing as a perpetrator on the child or adult Central Registries of abuse or neglect; a criminal conviction for a crime endangering the life, well-being, or safety of the victim or a member of the public; or a crime involving fraud or theft of property or services. The following criminal violations will disqualify a provider from enrollment:
 - (i) Child pornography;
 - (ii) Child sexual abuse;
 - (iii) Driving under the influence. For providers of non-transportation services, two or more driving under the influence citations or convictions have occurred within the last five years;
 - (iv) Domestic violence;
 - (v) Shoplifting after age 19 within the last three years;
 - (vi) Felony fraud within the last 10 years;
 - (vii) Misdemeanor fraud within the last five years;
 - (viii) Termination of provider status for cause from any Department program within the last 10 years;
 - (ix) Possession of any controlled substance within the last five years;
 - (x) Possession of a controlled substance with intent to deliver within the last five years;
 - (xi) Felony or misdemeanor assault without a weapon in the last 10 years;
 - (xii) Felony or misdemeanor assault with a weapon in the last 15 years;
 - (xiii) Prostitution or solicitation of prostitution within the last five years;
 - (xiv) Felony or misdemeanor robbery or burglary within the last 10 years;
 - (xv) Rape or sexual assault;
 - (xvi) Homicide; or
 - (xvii) Other pending criminal charges or convictions are evaluated using the general guidelines of this Chapter and weighted to similar offenses included on this list.

011.01 PROVIDER AGENCIES. If the provider is an agency, the provider agency must review its policies regarding hiring and reporting to ensure appropriate procedures

regarding abuse, neglect and other criminal violations are in place to protect recipients of services.

011.02 INDIVIDUAL PROVIDERS. If the provider is an individual, the Department will check the Abuse and Neglect Central Registries to determine if any substantiated reports of abuse or neglect by the provider exist. If the provider provides services in the provider's home, the Department will check the Abuse and Neglect Central Registries to determine if any substantiated reports of abuse or neglect by household members exist. If a report of abuse or neglect has been substantiated, the Department will not contract with the provider. If a report of abuse or neglect concerning a current provider or a household member as perpetrator is substantiated, the provider will be immediately terminated.

012. ENROLLMENT FORMS. Before furnishing any service, each provider shall sign an enrollment form agreeing to provide services in compliance with the enrollment form terms.

013. PROVIDER AGE QUALIFICATIONS. Service providers must be at least 19 years old.

014. SOCIAL SECURITY TAX WITHHOLDING. In some situations, the Department withholds Social Security taxes from provider payments. Individual in-home service providers of adult day care, homemaker services, and chore service providers who are not affiliated with an agency or who are not self-employed are considered employees of the recipient from whom they provide services. For in-home service providers who are not affiliated with an agency, the Department acts on behalf of those recipients to withhold mandatory Social Security taxes and pay the recipient's matching tax share to the Internal Revenue Service.

014.01 EARNINGS TAXED FOR SOCIAL SECURITY. Providers are subject to Social Security tax payment for each calendar quarter in which they are paid \$50.00 or more for services provided to one recipient. The \$50.00 is for one recipient, not a total received for two or more recipients. The Department withholds the tax from all payments to providers. If a provider's earnings do not reach \$50.00 per quarter, the amount withheld for that quarter is refunded.

014.02 SELF-EMPLOYED PROVIDERS. Individuals who file Social Security taxes on their own behalf are considered self-employed. They are identified by a Federal Identification number rather than a Social Security number.

014.03 SOCIAL SECURITY TAX RATES. The Department remits to the Internal Revenue Service an amount equal to the current Social Security tax rate for specified in-home services. Half of this amount is withheld from the provider as the employee's share; the other half is provided by the Department on behalf of the recipient employer.

014.04 OTHER TAXES. The Department does not withhold federal or state income tax or federal unemployment tax from any provider payment.